

Disciplinary and Other FINRA Actions

Firms Fined

A.B. Watley Direct, Inc. (CRD® #18663, New York, New York) submitted an Offer of Settlement in which the firm was censured, fined \$20,000 and required to file all sales literature and advertisements with FINRA's Advertising Regulation Department at least 10 days prior to their first use for one year from the date of this order. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that its Web site and television advertisements contained statements and claims that were misleading, exaggerated or unwarranted, and failed to provide a sound basis for evaluating the facts in regard to the services offered. The findings stated that the firm claimed in public communications that it offered low commission rates, but failed to clearly disclose that the rates were only available to customers who placed a certain amount of trades the previous month, and the claim was misleading in light of the actual commission rates and fees it charged the majority of its customers. The findings also stated that FINRA advised the firm that its television advertisements included misleading commission rate information, but nevertheless, the firm ran the TV advertisements without altering the material. The findings also included that the TV advertisements did not disclose any limitations or restrictions related to the stated commission rates.

FINRA found that the firm's Web site made various misleading claims regarding the speed of execution and level of market access the firm provided to clients. FINRA also found that the firm's homepage included a ranking by Barron's, but failed to provide sufficient information to evaluate the rating or criteria on which it was based. **(FINRA Case #2005003391301)**

BMO Capital Markets Corp. (CRD #16686, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Reportable Order Events (ROEs) to the Order Audit Trail System (OATS™) that were rejected for context or syntax errors and were repairable, but the firm failed to repair some of the rejected ROEs. Therefore, the firm failed to transmit the ROEs to OATS. The findings stated that the firm's listed equity options desk failed to transmit ROEs to OATS.

Reported for March 2010

FINRA® has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).



Financial Industry Regulatory Authority

The findings also stated that the firm failed to provide written notification disclosing to its customers its correct capacity in transactions and, when it acted as principal for its own account, failed to provide written notification disclosing to its customers that it was a market maker in each security. The findings also included that the firm failed to show the terms and conditions, identify if the order was a market or limit order, and/or show the correct execution time on brokerage order memoranda.

FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing quality of markets topics, in that the firm's written supervisory procedures for its listed equity options desk failed to provide for one or more minimum requirements for adequate written supervisory procedures in trade reporting, sales transactions, trading halts and OATS. FINRA also found that the firm failed to accept or decline transactions in reportable securities in the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) and the OTC™ Reporting Facility (OTCRF) within 20 minutes after execution that it had an obligation to accept or decline as the order entry firm (OEID). **(FINRA Case #2007009060401)**

BNP Paribas Securities Corp. (CRD #15794, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$82,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS; transmitted execution reports to OATS that contained inaccurate, incomplete or improper formatted data so that the OATS system was unable to link the execution reports to the related trade reports in an NASD® trade reporting system; transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order routed to NASDAQ or the corresponding new order that the destination member firm transmitted due to inaccurate, incomplete or improperly formatted data; and transmitted New Order Reports and related subsequent reports to OATS where the timestamp for the related subsequent report occurred prior to the receipt of the order. The findings stated that the firm submitted inaccurate short interest positions in NASDAQ and OTC equity securities to NASD (nka FINRA). The findings also stated that the firm's supervisory system prior to June 29, 2004 did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short interest reporting. The findings also included that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price. **(FINRA Case #2007008733501)**

Bornhoft Group Securities Corporation (CRD #21946, Denver, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in connection with public offerings of a multi-advisor commodity pool fund, the firm failed to submit any information related to its wholesaling activities in the wholesaling section in FINRA's online filing system, COBRADesk™; file the wholesaling agreements; or otherwise alert FINRA's Corporate Financing staff that a wholesaling agreement was in place in connection with the distribution of fund shares; and disclose in the offering prospectuses all wholesaling fees and expenses, including commissions, salaries and

expense reimbursements, that were paid in connection with fund sales. The findings stated that the firm repeatedly failed to file any information about the wholesaling arrangements with Corporate Financing and received “no objections” letters without fully disclosing all materially relevant information, and sold the fund shares to investors, while FINRA was unaware of its wholesaling program. The findings also stated that the wholesaling fees, expenses and reimbursement that the firm failed to appropriately disclose in the offering prospectuses totaled approximately \$6.5 million. The findings also included that the firm failed to disclose the existence of the wholesaling entities involved in the fund’s wholesaling program. **(FINRA Case #2008013035001)**

Brockington Securities, Inc. (CRD #37438, Ronkonkoma, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$24,000 and required to conduct eight hours of Anti-Money Laundering (AML) training for all employees within six months after issuance of this AWC. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to develop and implement an AML program reasonably designed to achieve and monitor compliance with Bank Secrecy Act (BSA) requirements. The findings stated that the firm’s AML program had inadequate procedures regarding the detection and reporting of suspicious activity, and the firm did not receive Financial Crimes Enforcement Network (FinCEN) requests pursuant to the BSA. The findings also stated that the firm failed to timely detect, investigate and report multiple instances of suspicious activity in customer accounts. The findings also included that the firm failed to conduct an independent AML test one year, failed to satisfy its supervisory control system requirements under NASD Rule 3012 and failed to prepare an adequate NASD Rule 3012 report detailing its system of supervisory controls and the summary of test results, which made its statement that “no other modification of the written supervisory procedure (WSP) was deemed necessary” baseless.

FINRA found that the firm failed to properly supervise the transmittal of customer funds and/or securities. FINRA also found that the firm’s employees utilized their personal email accounts to conduct business contrary to firm policy, but the firm did not have a system in place to review the emails. **(FINRA Case #2008011660901)**

Calyon Securities (USA) Inc. nka Credit Agricole Securities (USA) Inc. (CRD #190, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$131,000 and required to revise its written supervisory procedures regarding market order protection; SEC Rules 200(g), 203(a), 203(b)(3), 602, 605 and 606; best execution; trade reporting; sales transactions; trading halts; quotation requirements; books and records; OATS; multiple market participant identifiers (MPIDs); and NASD Rule 6130(d)(6). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report its short interest positions to NASD in NASDAQ and American Stock Exchange (AMEX) securities. The findings also stated that the firm incorrectly executed transactions as “riskless” that did not qualify for that trade reporting classification, or failed to report to the NASDAQ Market Center (NMC) either a clearing-only report with a capacity indicator of “riskless principal,” or a non-tape, non-clearing report with a capacity indicator of “riskless principal,” for the offsetting, “riskless” portion of transactions that qualified as riskless principal transactions, and failed to report last sale reports of transactions in designated securities to the NMC. The findings also

included that the firm transmitted inaccurate, incomplete or improperly formatted reports to OATS, in that the firm omitted execution information, cancel times and special handling codes, reported incorrect information about the capacity in which the firm acted, and misused a reporting exception code.

FINRA found that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price, its correct capacity in transactions and the correct symbol indicating whether transactions were a buy or sell. FINRA also found that the firm incorrectly marked orders as “held” instead of “not held” on the respective order memoranda. In addition, FINRA determined that the firm made available a report on the covered orders in national market system securities that it received for execution that included incorrect information by containing information about “not held” orders that are not encompassed within the definition of a “covered order” and are not subject to inclusion in such reports. Moreover, FINRA found that the firm failed to notify its customers annually in writing of the availability on request of information disclosing the identity of the venues to which the customer’s orders were routed for execution in the six months preceding the customer’s request, and the time of the transactions, if any, that resulted from such orders. Furthermore, FINRA found that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities, laws, regulations and FINRA rules addressing short interest reporting, market order protection; SEC Rules 200(g), 203(a), 203(b)(3), 602, 605 and 606 compliance; best execution; trade reporting; sales transactions; trading halts; quotation requirements; books and records; OATS; multiple MPIDs; and NASD Rule 6130(d)(6). FINRA found that the firm transmitted New Order Reports to OATS that contained an inaccurate account type code. FINRA also found that the firm had a fail-to-deliver position at a registered clearing agency in a threshold security for 13 consecutive settlement days, and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity; moreover, the firm continued to have a fail-to-deliver position at the clearing agency on 45 additional settlement days that it failed to close out when required. In addition, FINRA found that the firm failed to report to the FNTRF and the OTCRF the correct symbol indicating the capacity in which it executed transactions in reportable securities. FINRA determined that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning order handling, trade reporting and sales transactions; and the firm transmitted reports to OATS that failed to include a limit price for Limit-on-Close orders. (FINRA Case #2006004857001)

Casimir Capital, L.P. (CRD #105061, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$65,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to adequately respond to “red flags” generated by its exception report systems to review trading by its brokers to identify potentially improper trades or potentially inappropriate sales practices, including potential excessive trading or other potentially unsuitable transactions in retail customers accounts. The findings stated that the firm failed to establish, maintain and enforce adequate written supervisory procedures to provide guidance to supervisors and compliance personnel for review of transactions for suitability and excessive trading. (FINRA Case #2006006836301)

Chicago Investment Group, LLC (CRD #11853, Chicago, Illinois) submitted an Offer of Settlement in which the firm was censured, fined \$35,000 and ordered to disgorge a total of \$9,457.84, plus interest, to customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it charged customers markups on Collateralized Mortgage Obligations (CMOs) securities and charged markups, markdowns and commissions on equity securities that were not fair or reasonable, and failed to establish and maintain an adequate supervisory system, including written procedures, and otherwise failed to supervise to ensure that it and its registered representatives charged markups on CMO securities transactions that were fair and reasonable; and charged markups, markdowns and commissions on equity transactions that were fair and reasonable.

The findings also stated that the firm effected transactions of debt securities that were Trade Reporting and Compliance Engine™ (TRACE™)-eligible and failed to report the transactions in a timely and accurate manner. The findings also stated that the firm failed to establish and maintain an adequate supervisory system, including written procedures, reasonably designed to ensure that TRACE-eligible securities transactions were timely and accurately reported. **(FINRA Case #2007007329501)**

Direct Access Brokerage Services, Inc. (CRD #30057, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of the ROEs that it was required to transmit to OATS on numerous business days. **(FINRA Case #2007009925201)**

Direct Access Partners, LLC (CRD #120950, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted ROEs to OATS that OATS rejected for context or syntax errors and were repairable, but the firm failed to repair any of the rejected ROEs and, thus, failed to transmit ROEs to OATS. The findings stated that the firm failed to enforce its written supervisory procedures, which specified that a designated principal would review OATS data daily and monthly. **(FINRA Case #2008012541201)**

EBX LLC aka Level ATS (CRD #138138, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained incorrect cancel reports. The findings stated that, for one month, the firm made available a report on the covered orders in national market system securities that it received for execution from any person and several times, the report contained an incorrect number of cancelled shares. **(FINRA Case #2009017006501)**

E*Trade Securities LLC (CRD #29106, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$110,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report customer

complaints to FINRA, and to accurately report information regarding the complaints. The findings stated that the firm failed to timely and accurately report statistical and summary information for written customer complaints to FINRA. **(FINRA Case #2008011727801)**

Fifth Third Securities, Inc. (CRD #628, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely amend Uniform Applications for Securities Industry Registration or Transfer (Forms U4) to disclose registered representatives' liens and bankruptcies, failed to timely submit amended Uniform Termination Notices for Securities Industry Registration (Forms U5) to report investment-related complaints against registered representatives, and failed to timely file FINRA Rule 3070 reports with FINRA. **(FINRA Case #2008011703401)**

First Midwest Securities, Inc. (CRD #21786, Bloomington, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000, required to pay \$1,320.57, plus interest, in restitution to the parties involved in transactions, and required to revise its written supervisory procedures regarding fair pricing in corporate bonds. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold corporate bonds to customers and failed to sell such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning fair pricing in corporate bonds. **(FINRA Case #2005002260501)**

Foreside Distribution Services, L.P. (CRD #15634, Portland, Maine) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$100,000 and required to certify in writing to FINRA within 90 days of issuance of this AWC that it has in place systems and procedures reasonably designed to achieve compliance with laws, regulations and rules concerning the preservation of electronic mail communications. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve all of its business-related electronic communications. The findings stated that the firm did not have custody or control over records of business-related electronic communications that its investment adviser clients sent or received, and could not easily access them without first requesting them from, and having such records subject to review by, each investment adviser client. The findings also stated that the firm did not have an adequate system or agreement in place to ensure that the business-related electronic communications were retained and made easily accessible to the firm. The findings also included that the firm failed to establish and maintain a supervisory system and failed to establish, maintain and enforce written supervisory procedures (WSPs) reasonably designed to maintain and preserve all business-related electronic communications, including emails, in an easily accessible place, in that the firm's WSPs did not address the retention of electronic communications that non-firm employed registered representatives send and receive.

FINRA found that the firm amended its WSPs to specifically address the retention of these records, but they were deficient because they relied on the firm's investment adviser clients to retain the communications on their systems and did not ensure that the firm had easy access to the records. **(FINRA Case #2008011737901)**

HSBC Securities (USA) Inc. (CRD #19585, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS. The findings stated that the firm transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order routed to NASDAQ or was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. The findings also stated that the firm transmitted Execution or Combined Order/Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data; therefore, the OATS system was unable to link the execution reports to the related trade reports in a NASD trade reporting system. The findings also included that the firm transmitted New Order Reports and related subsequent reports to OATS where the timestamp for the related subsequent report occurred prior to the receipt of the order; therefore, the OATS system was unable to create an accurate, time-sequenced record from the receipt of the order through its resolution. **(FINRA Case #2008012771901)**

ICAP Electronic Broking LLC (CRD #47477, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it prepared a Customer Reserve Formula computation with a deposit requirement, but failed to ensure that the deposit was timely made into the separate bank account that the firm maintained for customers' benefit. The findings also stated that the firm failed to include aged suspense credits and commission rebates payable to customers in its Customer Reserve Formula computation, send customer account statements at least quarterly, maintain a stock record in the required form, and maintain adequate written possession and control procedures. **(FINRA Case #2009016809701)**

Itau USA Securities Inc. (CRD #118817, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, and failed to report the correct execution time for each transaction to TRACE. **(FINRA Case #2008015542301)**

Knight Capital Markets, LLC (CRD #38379, Purchase, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the NMC the correct symbol indicating that transactions in reportable securities were short sales. The findings stated that the firm executed short sale orders and failed to properly mark them as short. The findings also stated that the firm effected short sales of securities

registered on a national securities exchange at or below the price at which the last sale of each security, regular way, was reported pursuant to an effective transaction reporting plan. (FINRA Case #2007011354201)

Knight Equity Markets, L.P. (CRD #38599, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$112,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted ROEs to OATS that OATS rejected for context or syntax errors and failed to repair some of the rejected ROEs, and transmitted reports to OATS that were submitted with an improper exception code, and failed to indicate that transactions were short sales. The findings stated that the firm transmitted Execution Reports to OATS that contained inaccurate branch sequence numbers. The findings also stated that the firm failed to report to the NMC the correct symbol indicating that transactions in reportable securities were short sales and whether the transactions were buy, sell, sell short or cross. The findings also included that the firm executed short sale orders and failed to properly mark the orders as short.

FINRA found that the firm failed to report to the NASD/NASDAQ Trade Reporting Facility (NNTRF) the correct symbol indicating the contra correspondent's capacity for transactions in reportable securities. (FINRA Case #2006004129901)

Liquidnet, Inc. (CRD #103987, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it made available a report on the covered orders in national market system securities that it received for execution from any person that included incorrect information, including incorrect categorization of order types. (FINRA Case #2007009813901)

Nomura Securities International, Inc. (CRD #4297, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to reasonably supervise or control certain of its business activities, provide for appropriate procedures of supervision and control, and establish a separate system of follow-up and review to determine that delegated authority and responsibility was being properly exercised. The findings stated that the firm failed to follow certain of its written supervisory procedures for the domestic securities lending desk, failed to create and maintain adequate evidence of its compliance with its supervisory procedures for the domestic securities lending desk, failed to detect and prevent a securities lending supervisor from engaging in self-supervision, and permitted a person who was not registered with, qualified by or found acceptable to the New York Stock Exchange (NYSE) to regularly perform the duties customarily performed by a securities lending representative, for a brief period of time. (FINRA Case #2007011877901)

Raymond James & Associates, Inc. (CRD #705, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$100,000 and required to review its practices and procedures concerning its compliance with NASD Rule 2510(d)(1) to include a determination of whether any order entry

system the firm uses permits a registered representative or other associated person to exercise discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed, and whether it has systems and procedures in place that are reasonably designed to cause an exercise of time and price discretion in that security to be reflected on the order ticket. The firm shall develop written policies and procedures and cause changes to be made to its (or its agents) operational systems reasonably designed to cause the firm to be in compliance with NASD Rule 2510(d)(1). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it did not cause the exercise of time and price discretion to be reflected on an order ticket for applicable orders entered into its electronic Order Management System (OMS), or another firm's OMS, causing the firm to violate FINRA recordkeeping provisions. The findings stated that the firm implemented a change to its electronic OMS, satisfying the specificity requirements of NASD Rule 2510(d)(1), but did not implement a similar change to another OMS that its financial advisors used for larger orders. The findings also stated that, by not conducting adequate supervisory reviews of data relating to the exercise of time and price discretion, and by not having a system or procedure in place to produce certain order ticket data in connection with regulatory requests for order tickets, the firm failed to exercise reasonable supervision by not having adequate systems or procedures in place to cause it to be in compliance with the order ticket designation requirement of NASD Rule 2510(d)(1). **(FINRA Case #2008015756901)**

Raymond James & Associates, Inc. (CRD #705, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$32,500 and required to pay \$317.73, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted ROEs to OATS that OATS rejected for context or syntax errors, and the firm failed to repair some of the rejected ROEs. The findings stated that the firm incorrectly reported the second leg of "riskless" principal transactions as "agent" to the NNTRF, and failed to report the contra MPID to the OTCRF in one last sale report of a transaction in an OTC equity security. The findings also stated that the firm, when it acted as principal for its own account, failed to provide written notification disclosing to its customers that it was a market maker in each such security and failed to provide written notification disclosing to its customer its correct capacity in the transaction and the fact that the firm's remuneration was a commission equivalent. The findings also included that the firm failed to provide written notification disclosing to its customers its correct capacity for each execution and its corresponding remuneration as either a commission or commission equivalent.

FINRA found that the firm failed to execute orders fully and promptly and, for some of the transactions for or with a customer, it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. **(FINRA Case #2007008429301)**

RBC Capital Markets Corporation (CRD #31194, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$150,000, ordered to pay \$7,254.18, plus interest, in restitution to investors and ordered to revise

its written supervisory procedures regarding the use of multiple MPIDs. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had fail-to-deliver positions at a registered clearing agency in threshold securities for 13 consecutive settlement days and failed to immediately thereafter close out the fail-to-deliver positions by purchasing securities of like kind and quantity; or without closing out the fail-to-deliver position, it failed to borrow the security or enter into a *bona fide* arrangement to borrow the security before executing proprietary short sales. The findings stated that the firm transmitted ROEs to OATS that OATS rejected for context or syntax errors and were repairable; however, the firm failed to repair many of them and, therefore, failed to transmit the ROEs to OATS. The firm also failed to populate the rejected ROE resubmit flag with a “Y” for some rejection submissions. The findings also stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data.

FINRA found that the firm, when it acted as principal for its own account, failed to provide written notification disclosing to its customers that it was a market maker in each such security. FINRA also found that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning the use of multiple MPIDs. FINRA also found that the firm made available a report on the covered orders in national market system securities that it received for execution from any person that included incorrect information. In addition, FINRA determined that the firm failed to timely make available a report, or failed to make a report available via hyperlink, on the covered orders in national market system securities that it received for execution; failed to timely make reports on the routing of non-directed orders in covered securities publicly available, and failed to execute orders fully and promptly. Moreover, FINRA found that in transactions for or with customers, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. Furthermore, FINRA found that the firm failed to accept or decline transactions in reportable securities in the NNTRF and the OTCRF within 20 minutes after execution that it had an obligation to accept or decline as the OEID. FINRA also found that the firm purchased municipal securities for its own account from customers and/or sold municipal securities for its own account to customers at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved, in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. FINRA determined that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. In addition, FINRA found that the firm failed to report information regarding transactions and block transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of Time of Trade to an RTRS Portal. Also, the firm failed to report the correct special condition indicator code to the RTRS in municipal securities transaction reports and over-reported transactions in municipal securities to the RTRS. (FINRA Case #2006006102602)

Scottrade, Inc. (CRD #8206, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$90,000 and required to revise its written supervisory procedures regarding electronic blue sheet submission requirements. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report accurate trading information through the submission of electronic blue sheets in response to FINRA requests for such information, in that the firm failed to include the short sale indicator for the blue sheet records. The findings stated that the firm transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. The findings also stated that the firm failed to transmit numerous ROEs to OATS and transmitted ROEs to OATS that OATS rejected for context or syntax errors, and the firm failed to repair most of them. The findings also included that the firm failed to timely report ROEs to OATS, and transmitted execution reports to OATS that contained inaccurate, incomplete or improperly formatted data so that the OATS system was unable to link the execution reports to the related trade reports in an NASD trade reporting system. FINRA found that the firm submitted inaccurate short interest reports in NASDAQ and exchange-listed securities to NASD. FINRA also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with the applicable securities laws and regulations and FINRA rules concerning blue sheet submission requirements and short interest reporting. **(FINRA Case #2005002507502)**

Susquehanna Financial Group, LLLP (CRD #35865, Bala Cynwyd, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted ROEs to OATS that OATS rejected for context or syntax errors and were repairable, but the firm failed to repair some of the rejected ROEs, so the firm failed to transmit them to OATS. **(FINRA Case #2008012349001)**

thinkorswim, Inc. (CRD #106069, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to implement a written AML program reasonably designed to achieve compliance with the requirements imposed by the BSA and the regulations promulgated thereunder. The findings stated that the firm failed to create records detailing a description of the resolution of each substantive discrepancy discovered with regard to the verification of customers' identifying information. **(FINRA Case #2008011800501)**

UBS Financial Services Inc. (CRD #8174, Weehawken, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$11,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in transactions for or with customers, it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. **(FINRA Case #2006006375801)**

UBS Securities LLC (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$60,000 and required to revise its written supervisory procedures regarding order handling, best execution, trade reporting, sales transactions, OATS, trading halts, anti-intimidation/coordination and books and records. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the FNTRF the correct symbol indicating whether transactions were buy, sell, sell short or cross for transactions in reportable securities. The findings stated that the firm transmitted reports to OATS that failed to transmit, or incorrectly transmitted, execution reports, desk reports, cancel reports or route reports. The findings also stated that the firm made available a report on the covered orders in national market system securities it received for execution from any person, and incorrectly classified not held orders as covered, and failed to publish accurate statistics. The findings also included that the firm failed to provide documentary evidence of how it classified an order.

FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning order handling, best execution, sales transactions, anti-intimidation/coordination and books and records. FINRA also found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning best execution, trade reporting, sales transactions, trading halts, OATS and books and records. **(FINRA Case #2008014083102)**

Zacks & Company (CRD #7874, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit ROEs to OATS. The findings stated that the firm failed to enforce its written supervisory procedures, which specified that it should conduct reviews to ensure that all ROEs were submitted to OATS and document evidence of such reviews. **(FINRA Case #2007007810801)**

Individuals Barred or Suspended

Linda Marie Allen (CRD #2311685, Registered Principal, Bothell, Washington) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Allen's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Allen consented to the described sanctions and to the entry of findings that her Office of Supervisory Jurisdiction (OSJ) manager was absent from the OSJ for extended periods, but during these extended absences, he signed Delegation Letters that were submitted to and approved by the member firm to delegate his supervisory responsibilities to Allen, who was also registered as a principal. The findings stated that Allen signed the manager's name on the firm's internal documents with her manager's authorization, with both of them believing that the Delegation Letters were intended to provide her with authorization to act and sign as

the manager in his absence from the OSJ. The findings also stated that Allen's firm knew that her manager had delegated principal responsibilities to her, but the firm did not know that she had signed his name to firm documents. The findings also included that Allen never attempted to replicate her manager's signature, but signed his name in her own handwriting to firm documents, thereby causing the firm to maintain inaccurate books and records.

The suspension is in effect from January 19, 2010, through April 18, 2010. **(FINRA Case #2007010771801)**

Gary Thomas Armitage (CRD #1041078, Registered Principal, Healdsburg, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Armitage consented to the described sanction and to the entry of findings that he engaged in unauthorized transactions in a customer's account without obtaining the customer's prior authorization. The findings stated that Armitage participated in private securities transactions and failed to provide his member firm with prior written notice of the transactions. The findings also stated that Armitage failed to respond to FINRA requests for information. **(FINRA Case #2008014319901)**

Manuel Peter Asensio (CRD #1148811, Registered Principal, Miami, Florida) was fined \$20,000 and barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that a member firm, acting through Asensio, issued research reports that failed to define the meaning of each rating and that failed to disclose the distribution of the firm's ratings. The findings stated that the firm, acting through Asensio, made statements in research reports that were unwarranted or misleading. The findings also stated that Asensio failed to fully respond to FINRA requests for information.

This decision has been appealed to the Securities and Exchange Commission (SEC) and the bar is in effect pending consideration of the appeal. **(FINRA Case #CAF20030067)**

Odias Albert Bachelder II (CRD #2756954, Registered Principal, Portland, Maine) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Bachelder's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bachelder consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U4.

The suspension is in effect from January 19, 2010, through April 18, 2010. **(FINRA Case #2009017277501)**

John Brian Busacca III (CRD #2302780, Registered Principal, Orlando, Florida) was fined \$30,000 and suspended from association with any FINRA member in any principal capacity for six months. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Busacca failed to reasonably supervise the firm's operations and failed to diligently address numerous problems at

the firm, including, but not limited to, inaccurate box counts, accurate securities position records, violations of section 220.8 of Regulation T of the Federal Reserve Board, failing to maintain margin requirements, failing to report data pursuant to NASD Rule 3150 and problems with transfers of customers' accounts. The findings stated that Busacca, as the firm's president, permitted a non-registered person to act in a principal capacity as the firm's chief compliance officer.

This decision has been appealed to the SEC and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #E072005017201)**

Chi Tu Chow (CRD #4727691, Registered Representative, Boulder, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Chow consented to the described sanctions and to the entry of findings that, prior to the issuance of his research reports, he wrongfully shared earnings estimates, projected price targets and buy recommendations with institutional clients and member firm employees in contravention of his firm's written policies regarding the disclosure of potentially market sensitive information.

The suspension was in effect from January 19, 2010, through February 18, 2010. **(FINRA Case # 2007009453201)**

Melissa Dawn Curry (CRD #3027049, Associated Person, Shelbyville, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Curry consented to the described sanction and to the entry of findings that she misappropriated \$42,600 from a registered representative of her member firm. The findings stated that Curry took checks from the desk of another employee, who maintained the registered representative's checks, placed her name on the checks as payee, filled in amounts ranging from \$200 to \$3,500, forged the registered representative's signature, and deposited the checks into her personal bank account. The findings also stated that neither the registered representative nor the firm employee who maintained the checks gave Curry permission to take funds from the registered representative's account or to use the checks. **(FINRA Case #2009017865401)**

Jeffrey Allen Davis (CRD #4905524, Registered Representative, Keller, Texas) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Davis consented to the described sanction and to the entry of findings that he failed to obtain a customer's signature on an investment account application form; instead of contacting the customer, Davis falsified the customer's signature on the application and submitted it to his member firm as authentic, causing the firm's books and records to be false and inaccurate. The findings stated that the customer filed a complaint with the firm concerning the fees charged in his managed account and the firm responded denying that any compensation was due to the customer. The findings also stated that Davis acknowledged to the customer that he had falsified his signature on the application, and reimbursed the customer \$7,772.31 for losses in his account without disclosing such payments to his firm. The findings also included that Davis failed to appear and testify as FINRA requested. **(FINRA Case #2008015704401)**

Jennifer M. Davis (CRD #3235731, Registered Representative, Jacksonville, Florida) submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Davis consented to the described sanction and to the entry of findings that she assisted a third party in structuring deposits to evade the currency transaction reporting requirements of 31 U.S.C. 5313(a). The findings stated that Davis made deposits of U.S. currency, in the total amount of approximately \$304,900, into the account; the majority of the deposits were just under \$10,000. **(FINRA Case #2007007754801)**

Arthur Braden Diggs Jr. (CRD #1473867, Registered Representative, Midlothian, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Diggs consented to the described sanction and to the entry of findings that he misappropriated at least \$255,000 in customers' insurance premiums by requesting that the customers submit their checks to him, and then depositing some of them into his personal bank account for his own use and benefit. The findings stated that, in order to conceal his misappropriation, Diggs changed the addresses of record for the customers to a post office box he controlled, without their permission or knowledge, and periodically sent them altered insurance statements and told them that the policies were in good standing. The findings also stated that Diggs misrepresented on firm compliance surveys that he did not receive funds directly from his customers. **(FINRA Case #2008013992501)**

Charles Jesse Duff (CRD #4682320, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000, which included partial disgorgement of \$25,000 in commissions, and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Duff consented to the described sanctions and to the entry of findings that he caused customer orders to be executed in, and facilitated the distribution of, approximately 20 million shares of unregistered securities in stocks, and failed to perform thorough searching inquiries to ensure that the securities or transactions were exempt from registration, freely-tradable and unrestricted.

The suspension was in effect from January 19, 2010, through March 2, 2010. **(FINRA Case #2008011678301)**

Francisco P. Esparza (CRD #4420477, Registered Representative, Tustin Ranch, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Esparza consented to the described sanctions and to the entry of findings that he made unsuitable recommendations to his customers to buy closed-end funds (CEFs) purchased in an initial public offering (IPO) and sell them in the short term without fully understanding the pricing of CEFs and the risks and rewards of the investments. The findings stated that Esparza's recommendations accounted for customer losses totaling approximately \$73,290, including sales fees and depreciation of the securities.

The suspension was in effect from February 1, 2010, through February 22, 2010. **(FINRA Case #2007009520203)**

Juan Gustavo Espinoza (CRD #5033879, Registered Representative, Novato, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Espinoza's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Espinoza consented to the described sanctions and to the entry of findings that he willfully made false statements with respect to disclosing material facts on his Form U4.

The suspension is in effect from January 19, 2010, through July 18, 2010. **(FINRA Case #2009016491301)**

Karen L. Fence (CRD #1517545, Registered Principal, Whiting, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for six months. Without admitting or denying the findings, Fence consented to the described sanctions and to the entry of findings that she was responsible for the supervision of a representative and failed to take appropriate action to supervise the activities of the representative who was engaged in excessive and unsuitable trading in bonds and mutual funds in elderly customers' accounts. The findings stated that the representative made these recommendations without having a reasonable basis for believing that they were suitable based on the customers' investment objectives, financial situation and needs. The findings also stated that Fence failed to take appropriate action to supervise the representative that was reasonably designed to prevent his violations and to achieve compliance with applicable rules.

The suspension is in effect from February 16, 2010, through August 15, 2010. **(FINRA Case #2008014020401)**

James William Geis (CRD #1205939, Registered Representative, Mission Viejo, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Geis consented to the described sanction and to the entry of findings that he participated in private securities transactions of related offerings without his member firm's prior approval. The findings stated that the securities at issue consisted of oil and gas "working interests" and preferred stock. The findings also stated also that Geis sold unapproved securities in the amount of \$975,271 and received commissions of \$43,026. **(FINRA Case #2008014980201)**

Jeffrey Alan Gielau (CRD #2378363, Registered Representative, Anaheim Hills, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Gielau's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Gielau consented to the described sanctions and to the entry of findings that he altered documents in connection with transactions that customers requested. The findings stated that the customers

requested the transactions that were effected by the altered forms, but did not authorize Gielau to alter the documents, and Gielau's member firm prohibited altering documents in any manner. The findings also stated that to alter the documents, Gielau either cut a copy of an authentic signature from a prior document and pasted the signature to a new document or affixed a prior signature page and applied white out over the date and wrote in a new date.

The suspension is in effect from February 1, 2010, through April 30, 2010. **(FINRA Case #2009016698301)**

Stephen Alan Hackett (CRD #4525059, Registered Representative, Plant City, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hackett borrowed \$9,000 from a customer in contravention of his member firm's written procedures forbidding registered representatives from borrowing funds from customers, except in certain limited circumstances, which did not apply to the loan from this customer. The findings stated that Hackett failed to repay the loan and the customer was forced to file a civil action in the county court to enforce the terms of the loan agreement. The findings also stated that Hackett failed to respond to FINRA requests for information, documents and to appear for on-the-record testimony. **(FINRA Case #2008013690201)**

Neil Rolla Harrison (CRD #2254526, Registered Supervisor, Alton, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Harrison consented to the described sanction and to the entry of findings that he defrauded customers of approximately \$85,000 by soliciting funds for investment but instead used the funds for personal use. The findings stated that Harrison pled guilty to mail fraud in June 2009 and acknowledged that he knowingly participated in a fraudulent investment scheme. The findings also stated that Harrison failed to respond to FINRA requests for information and documentation. **(FINRA Case #2008015617301)**

Rani Tarek Jarkas (CRD #2642904, Registered Principal, San Francisco, California) submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Jarkas' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Jarkas consented to the described sanctions and to the entry of findings that he recommended or, in the exercise of discretion, executed securities transactions in a customer's account at his member firm without having a reasonable basis for believing that the volume of trading he recommended was suitable for the customer in light of information he knew about the customer's financial circumstances, needs, other security holdings and investment objectives. The findings stated that Jarkas caused the execution of approximately 2,400 transactions in the customer's account and received commissions of approximately \$240,000.

The suspension is in effect from February 1, 2010, through July 31, 2010. **(FINRA Case #2005003052001)**

Leonard Kahn (CRD #1184177, Registered Principal, Greensboro, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Kahn's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kahn consented to the described sanctions and to the entry of findings that he sold preferred stock shares of a company to investors, in the approximate amount of \$127,000, without prior written notice to, and written approval from, his member firm. The finding stated that one investor was an elderly individual who invested \$96,000 that she borrowed from a variable annuity that she had purchased through Kahn several years earlier. The findings also stated that the company had paid her approximately \$11,000 in annual interest when her Individual Retirement Account (IRA) custodian informed her that the company's preferred shares had no value and were worthless. The findings also included that Kahn executed and submitted his firm's Private Securities Transactions Certification, in which he falsely certified that he had not participated in any manner in private securities transactions since his employment with the firm.

The suspension is in effect from February 1, 2010, through July 31, 2010. **(FINRA Case #2008013363601)**

Edgar Davis Mock III (CRD #1309680, Registered Principal, Doylestown, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for one year. Without admitting or denying the findings, Mock consented to the described sanctions and to the entry of findings that he prepared false documents relating to his member firm's annual reports of its supervisory control system and annual certification of its compliance and supervisory processes for several years, which he later provided to FINRA. The findings stated that Mock backdated the documents to make them appear that they were prepared and executed on earlier dates.

The suspension is in effect from February 16, 2010, through February 15, 2011. **(FINRA Case #2009016258201)**

George Albert Montes (CRD #602337, Registered Principal, Walnut Creek, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000, suspended from association with any FINRA member in any principal capacity for one year, and required to requalify by examination before acting in any principal capacity with a FINRA member. The fine must be paid either immediately upon Montes' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Montes consented to the described sanctions and to the entry of findings that registered representatives in Montes' member firm who used options strategies in their customer accounts repeatedly became subject to active account surveillance and appeared on compliance department spreadsheets when their customer accounts sustained losses from voluminous stock and options transactions. The findings stated that despite being made aware of "red flags" indicating that unsuitable and excessive trading was

occurring in customer accounts, Montes failed to take reasonable supervisory steps to respond to the “red flags” with a view toward preventing the unsuitable and excessive trading and did not adequately investigate the representatives’ options trading.

The suspension is in effect from February 1, 2010, through January 31, 2011. **(FINRA Case #2005000346105)**

Andrew Kevin O’Fee (CRD #1887127, Registered Representative, Germantown, Tennessee) submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon O’Fee’s reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, O’Fee consented to the described sanctions and to the entry of findings that, on his member firm’s behalf, he verbally confirmed a sell order with another member firm for U.S. Treasury to be announced (TBA) securities, entered the trade into his firm’s trading systems via Bloomberg and cancelled the trade shortly thereafter, despite agreeing to the trade without properly entering the trade or honoring his commitment. The findings stated that O’Fee did this multiple times. The findings also stated that O’Fee’s firm honored his trade, closing out his short position at a loss to the firm of \$152,751.97. The findings also included that once O’Fee realized the trade he failed to enter had gone against him, he engaged in a series of additional trades to conceal his conduct and, in an attempt to make up losses in his trading book he entered buy orders with another member firm into his firm’s trading system via Bloomberg, but his firm’s clearing firm attempted to send a wire to the firm notifying it that there was no comparison.

FINRA found that O’Fee sold the securities to another member firm without the other firm’s authorization to effect the sales; therefore, he was short on the sale to the second firm. FINRA also found that O’Fee’s firm covered the short position, and these transactions caused his firm to lose an additional \$130,000, less a fail float of \$15,000. In addition, FINRA determined that when O’Fee effected the trades and cancellations, he only entered them into the firm’s trading system via Bloomberg and did not create handwritten tickets as firm policy required, thus permitting O’Fee to avoid supervisory review or detection and causing his firm’s books and records to be inaccurate.

The suspension is in effect from February 1, 2010, through July 31, 2011. **(FINRA Case #2008012052401)**

Susan Mary Pelloth (CRD #1414784, Registered Representative, Lockport, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Pelloth’s reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Pelloth consented to the described sanctions and to the entry of findings that she made alterations to the customer telephone number data in her member firm’s computer system by deleting their telephone numbers or replacing them with incorrect numbers, causing her firm’s records to contain false information.

The suspension was in effect from January 19, 2010, through March 2, 2010. (FINRA Case #2009017537301)

Melvin Lee Peterson (CRD #859600, Registered Principal, Pacifica, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000, suspended from association with any FINRA member in any principal capacity for one year and required to requalify by examination before acting in any principal capacity with any FINRA member. The fine must be paid either immediately upon Peterson's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Peterson consented to the described sanctions and to the entry of findings that he was responsible for contacting representatives at his member firm whose accounts appeared on the active account surveillance reports to investigate the activity and contact the customers, if necessary. The findings stated that, despite being made aware of frequent transactions in customers' accounts, Peterson failed to reasonably respond to "red flags" indicating unsuitable and excessive trading by not contacting the customers nor restricting activity in the accounts. The findings also stated that Peterson relied on the representatives' unsubstantiated and false claims and order entry records.

The suspension is in effect from February 1, 2010, through January 31, 2011. (FINRA Case #2005000346106)

Gary Ira Purcell (CRD #368850, Registered Principal, East Quogue, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$2,500 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Purcell's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Purcell consented to the described sanctions and to the entry of findings that he participated in the distribution of unregistered shares by offering and selling, through the means of interstate commerce, over 14 billion unregistered shares without an exemption in violation of Section 5 of the Securities Act of 1933. The findings stated that Purcell failed to ensure that each IB Equity Form he obtained from corporate customers was complete when he submitted them to the clearing firm, and should have performed a more thorough due diligence inquiry to ascertain whether the shares of a security were registered or exempt from registration, particularly since most of the trades occurred after the grant of summary judgment to the SEC was made public.

The suspension was in effect from February 1, 2010, through March 1, 2010. (FINRA Case #2009020546301)

Jose Ricardo Santillan (CRD #4792611, Registered Representative, Beaverton, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Santillan consented to the described sanction and to the entry of findings that he removed information regarding a FINRA qualification examination from a testing site. The findings stated that Santillan made handwritten notes, which included

examination questions and potential answers, and removed them from the testing site. The findings also stated that Santillan electronically confirmed his agreement to the rules of conduct and agreed to maintain the confidentiality of the examination materials, including the examination questions. **(FINRA Case #2008016181501)**

Steven William Sauer (CRD #2450263, Registered Representative, Dublin, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Sauer consented to the described sanction and to the entry of findings that his compensation arrangement with his member firm included a split of all investment advisor (IA) fees received, for which Sauer received 90% and the firm received the remaining 10%. Further, the firm's procedures required that all customer checks for payment of such fees be made payable to the firm. The findings stated that Sauer received checks totaling \$51,500 in IA fees from customers made payable to him. The findings also stated that Sauer deposited the checks into his personal and business checking accounts, did not timely inform his firm of these payments, but later confessed that he had improperly withheld the firm's portion of those payments, and repaid the firm \$5,150. **(FINRA Case #2008014156001)**

Lance Nathaniel Scida (CRD #4634133, Registered Principal, Wichita, Kansas) and Dennis Dale Bailey (CRD #3060060, Registered Representative, Highlands Ranch, Colorado) submitted an Offer of Settlement in which they were suspended from association with any FINRA member in any capacity for two years. In light of Scida and Bailey's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Scida and Bailey consented to the described sanctions and to the entry of findings that they made unsuitable recommendations to customers to open accounts with their member firm for purposes of buying and selling CMO securities. The findings stated that Scida and Bailey did not have reasonable grounds to believe that their recommendations were suitable for their customers in light of their investment objectives, risk tolerance and investment experience. The findings also stated that, in connection with the sale of CMOs, Scida and Bailey made material misrepresentations and omitted material facts, including representing that investing in CMOs would reap substantial returns with virtually no risk. The finding also included that Scida and Bailey exercised discretion in customer's non-discretionary accounts without written authorization signed by any of their clients and a firm principal.

The suspensions are in effect from October 5, 2009, through October 4, 2011. **(FINRA Case #2006005546007)**

Thomas James Sinclair (CRD #2104458, Registered Principal, Fairfield, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Sinclair consented to the described sanction and to the entry of findings that he misappropriated \$17,500 from a former customer's account by fabricating Letters of Authorization (LOAs) without the customer's consent or authorization, and submitted the LOAs to his former firm and requested that the funds be wired from the former customer's account to the accounts of a current customer and friends. **(FINRA Case #2008016123101)**

Marc Jay Sitzer (CRD #1488396, Registered Representative, Aventura, Florida)

submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Sitzer's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Sitzer consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on a Form U4.

The suspension is in effect from February 16, 2010, through May 15, 2010. **(FINRA Case #2008012375801)**

Kevin Joseph Sylla (CRD #2886649, Registered Principal, Beverly Hills, California)

submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Sylla's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Sylla consented to the described sanctions and to the entry of findings that he violated his firm's written procedures by borrowing \$100,000 from a firm customer through an entity that Sylla and other individuals had established. The findings stated that Sylla's firm specifically prohibited such loans.

The suspension is in effect from February 16, 2010, through February 15, 2011. **(FINRA Case #2007010889201)**

Craig Michael Taggart (CRD #3097049, Registered Representative, Mission Viejo, California)

submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$41,262, which includes disgorgement of \$31,262 in commissions received, and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Taggart's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Taggart consented to the described sanctions and to the entry of findings that he referred customers of a member firm to an investment entity as a potential investment, and these customers purchased the investment entity's promissory notes. The findings stated that Taggart participated in private securities transactions, failed to provide prior written notice to either of his member firms and failed to receive written permission from the firms to engage in the transactions for which he received compensation.

The suspension is in effect from February 1, 2010, through July 31, 2010. **(FINRA Case #2008013499801)**

Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.

Douglas Joe Barker (CRD #1290719, Registered Supervisor, Garland, Texas) was named as a respondent in a FINRA complaint alleging that he recommended and effected unsuitable short-term sales of CEFs in customers' accounts less than six months after purchasing them at their initial public offerings, causing his customers losses in excess of \$350,000, including sales fees and depreciation of the securities. (FINRA Case #2007009520202)

Earnest Flowers III (CRD #2547561, Registered Representative, Laurelton, New York) was named as a respondent in a FINRA complaint alleging that, in connection with the sale of investments in a film production company, Flowers made misrepresentations with the intent to deceive, manipulate or defraud, and made omissions of material information. The complaint alleges that Flowers misused at least \$30,498 he received for investment to repay an individual who had loaned him funds and to pay for personal expenses without the investors' knowledge, consent or authorization. The complaint also alleges that Flowers made unsuitable recommendations to a customer in light of the customer's financial situation, investment objectives and financial needs; attempted to settle away complaints without his member firm's knowledge or consent; and communicated with customers via unapproved outside email accounts without his member firms' knowledge or consent, and, as a result of his outside communications, his member firms were unable to review his emails to firm customers. The complaint further alleges that Flowers engaged in private securities transactions without prior written notice to, or prior written approval from, his member firms, or, in the alternative, engaged in outside business activities without providing written notice to his firms. (FINRA Case #2009016956601)

Afiz Sadrudin Hudani (CRD #2685460, Registered Representative, Colleyville, Texas) was named as a respondent in a FINRA complaint alleging that he misappropriated \$8,000 from customers by depositing their insurance premiums into his personal bank account and using the funds for his own uses and benefit without their authority or permission. The complaint alleges that Hudani removed approximately \$2,277.50 in dividends from a customer's insurance policy and applied the funds, without the customer's knowledge or consent, as premium payments on policies for individuals unrelated and/or unknown to the customer. The complaint also alleges that Hudani engaged in unauthorized transactions by causing a total of \$30,666.96 in dividend or loan withdrawals to be made from customer insurance policies without customer consent for the benefit of third parties and/or the customer or a family member of the customer. The complaint further alleges that Hudani caused customer term insurance policies to be converted into whole life policies without customer consent, earning \$978.06 in commissions. In addition, the complaint alleges that Hudani failed to appear for a FINRA on-the-record interview. (FINRA Case #2008012361801)

Charles William Kromer Jr. (CRD #1068867, Registered Supervisor, Cincinnati, Ohio) was named as a respondent in a FINRA complaint alleging that he effected unsuitable variable annuity transactions based on the customers' financial situation and needs. The complaint alleges that Kromer made misrepresentations and omissions of material facts to customers to induce them to switch their variable annuities to another firm, allowing him to continue to receive compensation from the investment of those customer assets. **(FINRA Case #2005002244102)**

John Marcus Newkirk Jr. (CRD #2708577, Registered Principal, Eaton, Ohio) was named as a respondent in a FINRA complaint alleging that he converted \$4,550 from customers. The complaint alleges that Newkirk converted \$4,000 from a customer by accepting \$4,000 in cash from the customer to purchase securities in the customer's account in contravention of his member firm's policies and procedures, and depositing into the customer's account a check drawn from Newkirk's outside business that was returned for insufficient funds. Funds to cover the intended purchase were never deposited into the customer's account. The complaint also alleges that Newkirk failed to deposit a \$550 check that he received from a family member of a deceased customer into the customer's account as requested, and instead deposited the check into a bank account he controlled. The complaint further alleges that Newkirk presented a false document that appeared to be an account statement to a third customer, and failed to respond to FINRA requests for information and to appear for testimony. **(FINRA Case #2008015195001)**

Purvis Gerard Presha (CRD #5433332, Associated Person, Nashville, Tennessee) was named as a respondent in a FINRA complaint alleging that he failed to inform a customer that he had been terminated from his member firm, was not registered as a Series 6, and could not purchase an annuity on her behalf, but instructed the individual to make a \$10,000 check payable to him, which he cashed. The complaint alleges that Presha failed to respond to FINRA requests for information. **(FINRA Case #2009018773301)**

Dean Allen Raber (CRD #2214667, Registered Principal, Sarasota, Florida) was named as a respondent in a FINRA complaint alleging that he misappropriated \$44,000 from an individual and \$10,000 from a customer, both of whom had entrusted Raber with their funds for the purpose of investment. The complaint alleges that, rather than investing the funds as he represented, Raber used the funds for his own uses and benefit and never returned any of the funds. The complaint also alleges that Raber failed to respond to FINRA requests for documents and information. **(FINRA Case #2008016254501)**

William Gregory Slonecker (CRD #3048481, Registered Representative, Nashville, Tennessee) was named as a respondent in a FINRA complaint alleging that he executed unsuitable variable annuity contract replacements or switches involving customers without regard to their age or financial backgrounds, and received \$85,000 in commissions from the switches. The complaint alleges that Slonecker's customers received no significant benefit from these transactions but incurred substantial surrender charges and new, extended surrender periods, and in some cases, paid additional fees. The complaint also alleges that Slonecker made false entries in his member firm's electronic order entry system and on various documents relating to the new variable annuity purchases in order to receive supervisory approval of

the replacement transactions, causing his firm to create and maintain inaccurate books and records. The complaint further alleges that Slonecker made numerous misrepresentations and omissions of material facts in connection with the offer and sale of variable annuities, and failed to cooperate with FINRA staff to provide documents. **(FINRA Case #2007009442501)**

Vladimir B. Victor (CRD #4502145, Registered Representative, Cleveland Heights, Ohio) was named as a respondent in a FINRA complaint alleging that he informed a customer to write checks payable to a third party totaling \$2,200 in order to purchase a financial plan. The complaint alleges that the customer wrote the checks but did not inquire as to why the checks were not made payable to Victor's member firm. The complaint also alleges that Victor deposited the checks into a bank account not affiliated with the firm and were not used to benefit the customer in any way, thereby misusing customer funds. The complaint further alleges that Victor failed to respond to FINRA requests for information. **(FINRA Case #2008013503101)**

Firm Cancelled for Failure to Pay Arbitration and Annual Assessment Fees Pursuant to FINRA Rule 9553

(The cancellation date is listed after the entry.)

Vision Securities, Inc.
Port Washington, New York
(January 8, 2010)

Firm Suspended for Failure to Supply Financial Information Pursuant to FINRA Rule 9552

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Lempert Brothers International USA, Inc.
New York, New York
(January 8, 2010)

Firms Suspended for Failure to Pay Annual Assessment Fees Pursuant to FINRA Rule 9553

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Michael Joseph Kilkenny
Spring Valley, New York
(January 8, 2010)

Provident Asset Management, LLC
Dallas, Texas
(January 8, 2010)

Individual Suspended for Failure to Pay Arbitration Fees Pursuant to FINRA Rule 9553

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Vishal Birsingh
Middletown, New York
(January 8, 2010 – January 19, 2010)

Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to FINRA Rule 8320

(If the revocation has been rescinded, the date follows the revocation date.)

Ralph Matthew Shino
Scottsdale, Arizona
(January 4, 2010)

Matthew Albert Somers
New York, New York
(January 27, 2010 – February 19, 2010)

Individuals Barred Pursuant to FINRA Rule 9552(h)

(If the bar has been vacated, the date follows the bar date.)

Richard J. Brockway
Erie, Pennsylvania
(January 5, 2010)

Robert Stephen Glynn
Central Islip, New York
(January 19, 2010)

Jill Anne Graziano
Malden, Massachusetts
(January 11, 2010)

Miles C. King
Gresham, Oregon
(January 19, 2010)

Ronald Scott Phillips
Henderson, Nevada
(January 11, 2010)

Michael Paul Satterfield
Sandy, Utah
(January 11, 2010)

Eric Todd Seiden
Boca Raton, Florida
(January 25, 2010)

Brenda Jean Sherrell
Hermiston, Oregon
(January 19, 2010)

Individuals Suspended Pursuant to FINRA Rule 9552(d)

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Todd David Gillespie
Aliso Viejo, California
(January 28, 2010)

Daniel Guadarrama
Northwood, Ohio
(January 11, 2010)

Tony Fred Mingo
Aliso Viejo, California
(January 28, 2010)

Moctar Justin Ndiaye
Tampa, Florida
(January 14, 2010)

Robert Alan Roxas
Minnetonka, Minnesota
(January 14, 2010)

Dean John Scaiano
Highlands, New Jersey
(January 25, 2010)

Edward Rudolph Sheppard
Westchester, New York
(January 22, 2010)

Nathan Albert Spells
Orlando, Florida
(January 11, 2010)

Joseph Alphonse Vitale
Boca Raton, Florida
(January 11, 2010)

Individuals Suspended for Failure to Comply with an Arbitration Award or Settlement Agreement Pursuant to FINRA Rule Series 9554

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Ronnie Ben-Aron
Staten Island, New York
(January 14, 2010)

Linda Joan Bailey
Staten Island, New York
(January 28, 2010)

Brian Matthew Bittner
New York, New York
(January 14, 2010)

Stuart Gregory Burchard
San Francisco, California
(January 7, 2010)

Walter Allen Ellis
Chesterfield, Virginia
(January 28, 2010)

Hector J. Gallardo
Long Island City, New York
(January 28, 2010)

Adam Robert Lazarus
Brookville, New York
(January 7, 2010)

Louis John Liberatore Sr.
Bluepoint, New York
(January 8, 2009 – January 13, 2010)

Erez Libschtein
Boca Raton, Florida
(January 7, 2010 – January 26, 2010)

William Todd Mauney
Flower Mound, Texas
(January 14, 2008 – January 21, 2010)

James Elton Maxwell Jr.
Glen Ellyn, Illinois
(January 14, 2010)

Jem Paul Maxwell
Chicago, Illinois
(January 14, 2010)

Ryan M. Orlando
Malvern, Arizona
(January 20, 2010)

Timothy Burke Ruggiero
Plantation, Florida
(January 11, 2010)

Alice Jean Solomon
Highlands, New Jersey
(January 7, 2010)

Michael Douglas Stebbins
Scottsdale, Arizona
(January 7, 2010 – January 14, 2010)

Don Dragan Steriovski
Crown Point, Indiana
(January 7, 2010)

Don Dragan Steriovski
Crown Point, Indiana
(January 28, 2010)

William Clayton Stroup
Chicago, Illinois
(January 20, 2010)